

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
EXECUTIVE DEFERRED COMPENSATION ANNUITY PLAN

Effective January 1, 2001

December 2001

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ARTICLE 1

NAME, PURPOSE AND EFFECTIVE DATE

1.01 NAME AND PURPOSE

The supplemental retirement plan set forth herein shall be known as the Massachusetts Bay Transportation Authority Executive Deferred Compensation Annuity Plan (the "Plan"). The Plan is established for the purpose of providing retirement plan benefits which are not provided under either the Massachusetts Bay Transportation Authority Retirement Fund (the "Retirement Fund"), the Massachusetts Bay Transportation Authority Police Association Retirement Plan (the "Police Plan"), the Massachusetts Bay Transportation Authority Deferred Compensation Plan (the "DC Plan"), or the Massachusetts Bay Transportation Authority Excess Benefit Annuity Plan (the "DC Plan") for certain employees due to the limitations of Section 401(a)(17) of the Code.

Effective January 1, 2001, the Plan shall provide retirement benefits to employees who participate in either the Massachusetts Bay Transportation Authority Retirement Fund, the Massachusetts Bay Transportation Authority Police Association Retirement Plan, or the Massachusetts Bay Transportation Authority Deferred Compensation Plan whose Compensation exceeds the pensionable compensation limit under Section 401(a)(17) applicable to his Basic Retirement Plan and if applicable the Deferred Compensation Plan.

The Plan is unfunded.

1.02 EFFECTIVE DATE

This Plan is originally effective as of January 1, 2001. This Plan applies to Participants who retire or terminate their employment with the Employer after the Effective Date.

ARTICLE II

DEFINITIONS

When used herein, the following terms defined hereinafter shall have the following meanings unless a different meaning is clearly required by the context of the Plan:

- 2.01 **"Actuarial Equivalent"** - For purposes of determining the amount of a lump sum distribution, Actuarial Equivalent shall be based on the applicable mortality table referenced in Code Section 417(e) and the applicable interest rate which shall be equal to the annual rate of interest on 30-year Treasury securities as specific by the Commission for the month of November immediately preceding the Plan Year in which determination is made.
- 2.02 **"Basic Retirement Plan"** means the either the Massachusetts Bay Transportation Authority Retirement Fund or the Massachusetts Bay Transportation Authority Police Association Retirement Plan as applicable.
- 2.03 **"Basic Retirement Plan Benefit"** means the annual benefit payable in the Life Annuity form from either the Massachusetts Bay Transportation Authority Retirement Fund or the Massachusetts Bay Transportation Authority Police Association Retirement Plan as applicable.
- 2.04 **"Board"** means the Board of Directors of the Employer.
- 2.05 **"Code"** means the Internal Revenue Code of 1986, as amended from time to time. Reference to a specific provision of the Code shall include such provision, any valid regulation or ruling promulgated thereunder, and any provision of future law that amends, supplements, or supersedes such provision.
- 2.06 **"Compensation"** means the total compensation payable to an Employee by the Employer as determined in accordance with the Qualified Plan, however, the limitations of Section 401(a)(17) of the Code shall not apply.
- 2.07 **"Deferred Compensation Contract"** refers to the individual deferred compensation agreement prepared for Executives and members of Local 453, provided that the employee participates in the Massachusetts Bay Transportation Authority Retirement Fund.
- 2.08 **"Deferred Compensation Contract Benefit"** means benefits under individual Deferred Compensation Contracts. Benefits under these arrangements are determined without regard to any IRS limitations.
- 2.09 **"Deferred Compensation Plan"** means the Massachusetts Bay Transportation Authority Deferred Compensation Plan.

- 2.10 **"Deferred Compensation Plan Benefit"** means the annual benefit payable in the Life Annuity Form from the Massachusetts Bay Transportation Authority Deferred Compensation Plan.
- 2.11 **"Effective Date"** means January 1, 2001 .
- 2.12 **"Employee"** means any person employed by the Employer.
- 2.13 **"Employer"** means Massachusetts Bay Transportation Authority and any subsidiary and/or affiliated corporation which has adopted this Plan.
- 2.14 **"Excess Annuity Plan Benefit"** means the annual benefit payable in the Life Annuity form from the Massachusetts Bay Transportation Excess Benefit Annuity Plan.
- 2.15 **"Excess Benefit Annuity Plan"** means the means the Massachusetts Bay Transportation Authority Excess Benefit Annuity Plan.
- 2.16 **"Executive"** shall mean a category of employees of the Authority as may be defined from time to time according to the Authority's regular personnel practice.
- 2.17 **"Foregone Employee Contribution Annuity"** is a life annuity actuarially equivalent to the accumulated value of employee contributions a member could not make to his Basic Retirement Plan on compensation in excess of the Section 401(a)(17) limit, as determined in Section 4.01.
- 2.18 **"Participant"** - means an Employee who has become a Participant in this Plan pursuant to the conditions set forth in Article III.
- 2.19 **"Plan"** means the Massachusetts Bay Transportation Authority Excess Benefit Annuity Plan.
- 2.20 **"Plan Administrator"** means the Pension and Savings Committee appointed by the Board which serves as the administrator of the Plan.
- 2.21 **"Plan Year"** shall mean the calendar year.

ARTICLE III

PARTICIPATION

3.01 PARTICIPATION

Any Employee shall become a Participant in the Plan provided he is a member of the Executive payroll and has satisfied the eligibility requirements for participation under the Basic Retirement Plan and has received compensation for any year, as that term is defined in his Basic Retirement Plan or Deferred Compensation Plan, as applicable, which exceeds the maximum compensation limit under Section 401(a)(17) applicable to any of these plans.

ARTICLE IV

EXCESS ANNUITY BENEFIT

4.01 AMOUNT OF EXECUTIVE DEFERRED COMPENSATION BENEFIT

The amount of a participant's Executive Deferred Compensation Annuity Benefit is (a) - (b) - (c), where

- (a) is the Participant's Basic Retirement Plan Benefit(s) and, if applicable his Deferred Compensation Plan Benefit calculated without reflecting the application of the maximum pensionable compensation limits of IRC Section 401(a)(17) or the maximum benefit limits of IRC Section 415, and
- (b) is the Participant's Basic Retirement Plan Benefit(s) and, if applicable his Deferred Compensation Plan Benefit calculated reflecting the application of the maximum pensionable compensation limits of IRC Section 401(a)(17) only, each such calculation made before applying the offset, if any, for payments under the Participant's Deferred Compensation Contract
- (c) is his Foregone Employee Contribution Annuity.

The Employer will determine the Foregone Employee Contribution Annuity as follows: The Employer will maintain a bookkeeping account to accumulate the foregone employee contributions to the Basic Retirement plan. That account will be credited each year, as of December 31, with the foregone employee contributions, and with interest at a rate equal to 120% of the Federal Mid Term rate for the month of the prior January on the accumulated balance as of the beginning of that calendar year. Upon retirement, that bookkeeping balance will be converted to a life annuity using the interest rate and mortality table used by the Basic Retirement Plan to determine the employee provided portion of the Basic Retirement Plan benefit.

4.02 VESTING

A participant shall vest in that portion of his Executive Deferred Compensation Annuity Benefit attributable to his Basic Retirement Plan(s) and, if applicable, the Deferred Compensation Plan in accordance with the vesting provisions of each underlying plan.

4.03 COORDINATION WITH DEFERRED COMPENSATION CONTRACT

The annuity benefit determined in 4.01 above shall be reduced, but not below \$0, by the benefit payable by the Authority under the Participant's Deferred Compensation Contract.

ARTICLE V

PAYMENT OF BENEFIT

5.01 PAYMENT OF EXECUTIVE DEFERRED COMPENSATION BENEFIT

The benefit for a Participant who satisfies the eligibility provisions of Section 3.01 shall be determined under Article IV of the Plan.

5.02 DISTRIBUTIONS UNDER THIS PLAN

Benefits to Participants and/or their designated beneficiaries under this Plan shall be paid in the form of a single lump sum which is Actuarially Equivalent to the Life Annuity benefit determined under Article IV.

5.03 COMMENCEMENT OF BENEFIT

Executive Deferred Compensation Benefits shall commence upon termination of employment.

ARTICLE VI

FUNDING AND ADMINISTRATION

6.01 FUNDING

There is no fund associated with this Plan. The Employer shall be required to make payments only as benefits become due and payable. No person shall have any right, other than the right of an unsecured general creditor, against the Employer with respect to the benefits payable hereunder, or which may be payable hereunder, to any Participant, surviving spouse or beneficiary. If the Employer, acting in its sole discretion, establishes a reserve or other fund associated with this Plan, no person shall have any right to or interest in any specific amount or asset of such reserve or fund by reason of amounts which may be payable to such person under this Plan, nor shall such person have any right to receive any payment under this Plan except as and to the extent expressly provided in this Plan. The assets in any such reserve or fund shall be subject to the control of the Employer, and need not to be used to pay benefits hereunder.

6.02 DUTIES OF THE PLAN ADMINISTRATOR

The Plan shall be administered by the Plan Administrator in accordance with its terms and purposes. The Plan Administrator shall determine the amount and manner of payment of the benefits due to or on behalf of each Participant from the Plan and shall cause them to be paid by the Employer accordingly.

6.03 FINALITY OF DECISIONS

The Plan Administrator is expressly granted, without intending any limitation, the discretionary authority to construe and interpret the Plan and to determine all questions relating to eligibility, rights, and entitlement to benefits hereunder and such authorities as may be necessary for it to discharge its duties and responsibilities hereunder. Except as otherwise provided by law, all decisions made by and the actions taken by the Plan Administrator in connection with the administration and operation of the Plan shall be final and conclusive on all persons, and the Plan Administrator shall not be subject to liability with respect to the Plan.

ARTICLE VII

MISCELLANEOUS

7.01 NO GUARANTEE OF EMPLOYMENT

Nothing contained in this Plan shall be construed as a contract of employment between the Employer and any Participant, or as a right of any such Participant to be continued in the employment of the Employer, or as a limitation on the right of the Employer to deal with any Participant, as to his employment, discharge, layoff, compensation, and all other conditions of employment in all respects as though this Plan did not exist.

7.02 RIGHTS UNDER PLAN

Nothing in this Plan shall be construed to limit, broaden, restrict, or grant any right to a Participant, surviving spouse or any beneficiary thereof under the Plan, nor to grant any additional rights to any such person under the Plan, nor in any way to limit, modify, repeal or otherwise affect the Employer's right to amend or modify the Plan.

7.03 TERMINATION FOR CAUSE

If a Participant's employment with the Employer is terminated for cause then, notwithstanding any other provision of the Plan, no benefits shall be payable under Article V of the Plan to or with respect to such Participant. Termination for cause shall mean termination because of any dishonest act with respect to the Employer or its property, gross negligence or willful neglect in the performance of his duties as an Employee, or the failure of a Participant to fulfill his obligations under the Plan while an Employee of the Employer.

7.04 AMENDMENTS/TERMINATION

With respect to administrative or non-plan design matters, the Plan may be amended at any time by the Plan Administrator by executing a written instrument describing such change. The Plan may be terminated at any time, or amended at any time with respect to plan design matters by a vote duly adopted by the Board. As used in the preceding sentence, the term "plan design matters" refers to amendments that directly affect a Participant's eligibility for benefits or the amount of such benefits. The term "administrative or non-plan design matters" refers to all other changes including, but not limited to, provisions affecting the administration of the plan, as well as changes to plan provisions which are required by law.

In all cases, however, upon termination of this plan or upon an amendment for plan design matters a participant's Excess Annuity Plan Benefit will be protected as follows:

- (a) For a participant already receiving payments under the Plan, his Excess Annuity Plan Benefit may not be reduced below that benefit he is already receiving on the termination date or effective date of such amendment.
- (b) For a vested participant not yet in pay status, his Excess Annuity Plan Benefit shall not be reduced below that amount which, as of his actual retirement date, will be required to pay, under the terms of the Basic Retirement Plan, his Deferred Compensation Contract (if any), the Deferred Compensation Plan, the Excess Benefit Annuity Plan and this Plan as they existed on the date of termination/amendment, the total benefit he had accrued under all of those plans as of the date of termination/amendment, recognizing the Section 415 limit in effect at his eventual benefit commencement date.

7.05 NONASSIGNABILITY

The benefits payable under this Plan shall not be subject to alienation, assignment, garnishment, execution or levy of any kind and any attempt to cause any benefits to be so subjected shall not be recognized, except to the extent required by applicable law.

7.06 ENTIRE AGREEMENT

This Plan, including any subsequently adopted amendments, shall constitute the entire agreement. There are no covenants, promises, agreements, conditions or understandings, either oral or written, between the Employer and any Participant relating to the subject matter hereof, other than those set forth in this Plan. This Plan and any amendment shall be binding on the parties hereto and their respective heirs, administrators, trustees, successors and assigns, and on all designated beneficiaries of the Participant.

7.07 SUCCESSOR COMPANY

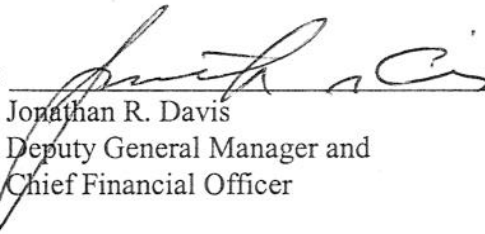
In the event of the dissolution, merger, consolidation or reorganization of the Employer, provision may be made by which a successor to all or a major portion of the Employer's property or business shall continue this Plan, and the successor shall have all of the powers, duties and responsibilities of the Employer under this Plan.

7.08 GOVERNING LAW

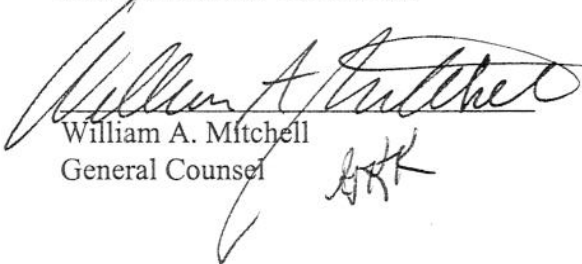
This Plan shall be construed and enforced in accordance with, and governed by, the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, Massachusetts Bay Transportation Authority has caused this instrument to be executed in its name and on its behalf this 28TH day of DECEMBER, 2001.

**MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY**

By: 
Jonathan R. Davis
Deputy General Manager and
Chief Financial Officer

APPROVED AS TO FORM:


William A. Mitchell
General Counsel 